

IN THE DRAWING:

Applicant has noted the objection to the informal drawing originally submitted. A formal drawing enclosed herewith should be substituted for the informal drawing.

## REMARKS

### SUMMARY

In the Office Action of December 14, 2005, the Examiner rejected certain claims based 35 U.S.C. §102, and others on 35 U.S.C. §103(a), but acknowledged that certain claims included allowable subject matter and allowed method Claims 17 through 20. The new claims 21 through 28 are submitted to clarify the definition of Applicant's invention. Applicant believes that the rejections based on 35 U.S.C. §102 and 35 U.S.C. §103(a) are now moot in view of these new claims.

### DISCUSSION OF PRIOR ART

The Examiner relied solely on Bull in rejecting the original claims. The new claims clearly distinguish Applicant's invention from Bull for the following reasons:

First, the Bull material holding apparatus is unsuited for detachable connection to a suction tube. Bull never contemplates or suggests detachably connecting his apparatus to a suction tube. The split ring 16 is designed to fit on a user's finger, and therefore, has a diameter much greater than the diameter of suction tubes commonly employed by dentists. Moreover, using the Bull apparatus to dispense polishing material while polishing teeth fails to free up both hands of the hygienist as does Applicant's device. For example, if the hygienist attached to the finger of one hand the Bull material holding apparatus and inverts this

one hand, the polishing material will be spilled. This does not occur using Applicant's invention.

Second, the subparts 16a and 16b of Bull's ring 16 do not form an open bite between the fingers having a "...predetermined dimension that is slightly less than the diameter of the suction tube..." As stated in Claims 23 and 27, the open bite has "...a substantially circular configuration ... with a diameter of substantially 0.25 inch..." These dimensions are important because the Applicant's invention, contrary to the Bull material holding apparatus, is designed to fit on a suction tube, which has a diameter substantially smaller than the normal diameter of a finger of a hygienist.

Three, contrary to the Examiner's assertion, Bull never teaches that his cup 12 holds "...only a sufficient amount of polishing material to polish the teeth of essentially only a single patient..." As stated in Claims 25 and 27, Applicant's cup has a volume 'substantially from 0.05 to 0.1 cubic inch..."

Four, the fingers used in Applicant's invention are configured very differently than the subparts 16a and 16b of Bull's ring 16. These subparts 16a and 16b are arcuate and curve inward towards each other. having spaced apart, outer terminal ends and The inner ends of Applicant's finger "...merge nearby the bottom wall to form between said inner ends an open bite that has predetermined dimension that is slightly less than the diameter of the suction tube..." this structure is absent in the Bull apparatus. In Applicant's invention the finger elements have "...inner edges tapering outward from the open bite to terminate at said outer

ends..." These outer ends are spaced apart "...a distance slightly greater than the diameter of the open bite so that the tube passes between the outer ends and into the open bite to detachably connect the clip to the tube."

Five, as stated in Claims 24 and 28. the inner edges each "...tapers outward from the bottom wall at an angle substantially from 1 to 10 degrees with respect to the longitudinal axis of the cup member."

Six, that Examiner states that "...the particularly claimed range of dimensions would have been obvious --- as a matter of routine in practicing the Bull invention." Clearly, the dimensions in Applicant's invention are different than in the Bull invention and Bull fails to suggest that such dimensions are important.

Seven, Bull never contemplates the combination set forth in new Claim 29, namely, the combination of a suction tube adapted to be inserted into the mouth of a patient and a dental hygiene device detachably connected to a portion of the suction tube extending from the mouth of the patient.

### Telephone Interview

The Applicant, Gina Dellanina, called the Examiner on March 13, 2006, and discussed the Bull reference. Specifically, she pointed out that the dimension of the bite in her device is important so her device may be attached to a suction tube. Bull's split finger ring 16 has a diameter substantially the same as a finger of a hygienist, which is substantially greater than the diameter of a suction tube even considering the little

finger that is typically greater than 0.25 inch. Also, the new Claim 29 claiming the combination of her device attached to a suction tube was suggested by the Examiner.

### **NO SURRENDER OF PATENTABLE SUBJECT MATTER & THE FESTO DOCTRINE**

The new claims broadly recite the subject matter that the Applicant believes is allowable based on the statements made by the Examiner in the last Office Action, taking into consideration the limitations of the English language and the inability of the Applicant to foresee all the possible equivalents that may be developed in the future. Therefore, the above reply avoids the application of the Festo doctrine, Festo Corp. v Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd., et al 535 U. S. 722 (2002). Consequently, the new claims are entitled to the application of the doctrine of equivalents under Warner-Jenkinson v. Hilton Davis Chemical Co., 520 U. S. 17 (1997).

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In view of the above, the application is deemed to be in a condition for allowance and such action is solicited.

### **TELEPHONE INTERVIEW**

If the Examiner believes that an additional telephone interview with the Applicant's attorney, John J. Connors, would advance the allowance of this application, Applicant's attorney requests the Examiner call to

arrange a date and time for such interview after having an opportunity to review the above.

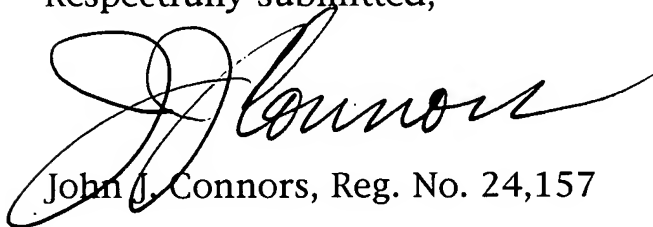
### EXTRA FEE

Any additional fees should be charged to Applicant's attorney deposit account as indicated below.

### CUSTOMER NUMBER

Please note Applicant's attorney Customer No. 021905, and confirm that this customer number has been entered in the U. S. Patent & Trademark Office records in connection with the above-identified application.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "J. Connors", written in black ink.

John J. Connors, Reg. No. 24,157

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CERTIFICATE OF MAILING



I hereby certify that this correspondence is being mailed with the United States Postal Service as First Class Mail, the correct postage paid, in an envelope addressed to: Honorable Commissioner of Patents, P. O. Box 1450, Alexandria, VA 22313-145020231, on March 13, 2006

By: \_\_\_\_\_

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The commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 03-2830.

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